

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
WINCHESTER DIVISION**

48.6137

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**LUCILLE P. ELLIS,**

**PLAINTIFF,**

**VS.**

**NO.** \_\_\_\_\_

**STATE AUTO PROPERTY AND  
CASUALTY INSURANCE COMPANY  
(MISNAMED AS STATE AUTO  
INSURANCE COMPANY),**

**DEFENDANT.**

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**NOTICE OF REMOVAL OF STATE AUTO  
PROPERTY AND CASUALTY INSURANCE COMPANY  
(MISNAMED AS STATE AUTO INSURANCE COMPANY)**

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Defendant State Auto Property and Casualty Insurance Company (misnamed as State Auto Insurance Company), by and through counsel, McNabb, Bragorgos, Burgess & Sorin PLLC, files this Notice of Removal pursuant to 28 USCS § 1332 and 28 USCS § 1441 *et seq.* Diversity of citizenship exists among the remaining parties, the amount in controversy exceeds the federal jurisdictional limits, and 28 USCS §1446 (3) authorizes the removal.

1. On July 1, 2016, the above captioned Plaintiff commenced a civil action against Defendants in the Circuit Court of Franklin County, Tennessee with an assigned Docket Number of 2016-CV-164. The style of the state court case was/is not identical to the style of this Notice of Removal. The style of the original state court case included a

Defendant, V. R. Williams Insurance Company, Inc. which the Court dismissed from the cause of action by an Agreed Order.

2. V. R. Williams Insurance Company filed an Answer in State Court on August 15, 2016. State Auto filed an Answer in State Court on September 15, 2016 after the entry of an Order enlarging the time to file an Answer. In the Answer, State Auto correctly identified itself as State Auto Property and Casualty Insurance Company (misnamed as State Auto Insurance Company in the Complaint).

3. Plaintiff's cause of action arises from a dispute over insurance coverage due under a policy issued to Plaintiff by State Auto.

4. On January 31, 2017, Plaintiff and former Defendant V. R. Williams Insurance Company agreed to an Order whereby Plaintiff voluntarily dismissed her cause of action against V. R. Williams Insurance Company. The Agreed Order is Exhibit 1 to this Notice of Removal.

5. As a result of the January 31, 2017 Order, only two parties remain in the cause of action – Plaintiff and State Auto.

6. The jurisdiction and venue for the filing of the original Complaint (Franklin County, Tennessee) were proper because of the location of the events which are the subject of the Complaint.

7. According to the original Complaint, Plaintiff, Lucille Ellis, is a resident of the State of Tennessee. According to the original Complaint, Defendant State Auto Property and Casualty Insurance Company (misnamed as State Auto Insurance Company) is a foreign corporation. State Auto Property and Casualty Insurance

Company is organized under the laws of Iowa with its principal place of business located at 518 Broad Street, Columbus, Ohio 43215. Diversity amongst the parties is complete.

8. According to the original Complaint, the amount in controversy is \$1,150,000.00 and therefore exceeds the federal jurisdiction limits.

9. This Court has removal jurisdiction based on 28 U.S.C. §1441(a).

10. This action is properly removable based on 28 U.S.C. §1446 (b)(1) and §1446 (3) because this Notice of Removal is filed within thirty (30) days after State Auto received a copy of the Agreed Order (described in Paragraph 4 above) dated January 31, 2017 from which it first ascertained this cause of action is one which has become removable.

11. State Auto has, on this date, given written notice of the filing of this Notice of Removal to Plaintiff as required by 28 U.S.C. §1446(d) and to the Circuit Clerk of Franklin County, Tennessee, as required by 28 U.S.C. §1446(d).

12. If any questions arise as to the propriety of the removal of this action, State Auto requests the opportunity to present a brief and, if it pleases the Court, oral argument in support of its position that this action is removable. Accordingly, State Auto requests the opportunity to obtain discovery prior to any briefing on the issue of removal if the Court sees fit to do so.

13. Attached as Exhibit 2 is an accurate copy of the relevant pleadings from State Court.

As averred, State Auto requests that this action proceed in this Court based on this Removal, that this Court assume jurisdiction of this case through resolution, and for such other further relief as authorized by law.

Based on the foregoing, State Auto asks the Court to accept the case for removal from the Circuit Court of Franklin County, Tennessee to the United States District Court of Tennessee for the Eastern District at Winchester.

Respectfully submitted,

**McNABB, BRAGORGOS,  
BURGESS & SORIN, PLLC**

s/ Leland M. McNabb

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**CERTIFICATE OF SERVICE**

I hereby certify that on February 16, 2017, a copy of the foregoing was filed electronically with the Clerk's office by using the CM/ECF system and served electronically and/or via first-class U.S. Mail, postage prepaid, upon all parties as indicated below. Parties may also access this filing through the Court's ECF system.

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s/ Leland M. McNabb

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